

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FEDERATED ADMINISTRATIVE
SERVICES and FEDERATED HERMES,
INC.,

Plaintiffs,

v.

ENDURANCE AMERICAN INSURANCE
COMPANY and CONTINENTAL
CASUALTY COMPANY,

Defendants.

Civil Action No. 2:23-cv-1239

Hon. William S. Stickman IV
Hon. Kezia O. L. Taylor

ORDER OF COURT

Plaintiffs Federated Administrative Services and Federated Hermes, Inc. (“Plaintiffs”) filed this action on July 7, 2023, against Defendants Endurance American Insurance Company (“Endurance”) and Continental Casualty Company (“Continental”). (ECF No. 1). Continental filed its answer and affirmative defenses in October 2023. (ECF No. 26). Endurance filed a motion to dismiss Count III of Plaintiffs’ complaint. (ECF No. 27). Count III is a claim against Endurance for breach of the implied covenant of good faith and fair dealing. (ECF No. 1, pp. 24-25). After the conclusion of briefing on Endurance’s motion, Magistrate Judge Kezia O. L. Taylor issued a Report and Recommendation that the motion be denied. (ECF No. 30). Objections were filed by Endurance. (ECF No. 31).

Objections to a magistrate judge’s disposition of a dispositive matter are subject to *de novo* review before the district judge. 28 U.S.C. § 636(b)(1)(B)-(C); Fed. R. Civ. P. 72(b)(3). The reviewing district court must make a *de novo* determination of those portions of the magistrate judge’s report and recommendation to which objections are made. *Id.* Following *de*

novo review, “[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3).

Upon review of Magistrate Judge Taylor’s Report and Recommendation, Endurance’s Objections, and the Court’s *de novo* review of the record in this matter, IT IS HEREBY ORDERED that Endurance’s Objections (ECF No. 31) are OVERRULED. The Court has exercised its *de novo* review and concurs with Magistrate Judge Taylor’s thorough analysis and legal conclusions as to Count III. It has independently reached the same legal conclusions for the reasons expressed in the comprehensive Report and Recommendation. Therefore, the Court hereby APOPTS Magistrate Judge Taylor’s Report and Recommendation (ECF No. 30) as its Opinion.

AND NOW, this 11th day of June 2024, IT IS HEREBY ORDERED that Endurance’s Motion to Dismiss Count III of Plaintiffs’ Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6) (ECF No. 27) is DENIED.

BY THE COURT:

s/ William S. Stickman IV
WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE